

**REPLY COMMENTS  
OF THE RETAIL ENERGY SUPPLY ASSOCIATION  
CONCERNING THE SPRING 2012 ELECTRIC PROCUREMENT EVENTS**

**I. INTRODUCTION**

The Retail Energy Supply Association (“RESA”) is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers. RESA was an active participant in Ill. C. C. Docket 11-0660, in which the Illinois Commerce Commission (“Commission”) entered its order approving, with modifications, the procurement plan of the Illinois Power Agency (“IPA”).<sup>1</sup>

In these Reply Comments, RESA will address the following three issues: 1) the timing of the procurement process, addressed in the Initial Comments of Exelon Generation (“ExGen”); 2)

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<sup>1</sup> RESA’s members include Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

the IPA's continued use of its three-year ladder approach to the procurement of electricity<sup>2</sup>, as addressed in the Initial Comments of the Staff of the Illinois Commerce Commission ("Commission Staff") and Boston Pacific Company ("BPC"), and 3) the Commission Staff's comments regarding issues arising from Section 1-75 (c) (5) of the IPA Act.

## II. RESPONSE TO EXGEN-TIMING OF PROCUREMENT PROCESS

ExGen noted the 2012 Renewable Energy Credit ("REC") procurements took place weeks later than the energy and capacity procurements, stating that this is "unnecessary and detrimental to the retail market". ExGen further stated that holding REC procurements so close in time to the June 1 date when new prices become effective backs up the timeline of when those new rates can be published and that delays in release of the tariffs and charges cause substantial confusion and potential competitive harm in the retail market. ExGen concludes that REC procurements (the last piece of the pricing puzzle) be conducted within days of the energy and capacity procurements. (ExGen Initial Comments, pp. 6-7)

RESA agrees with ExGen that delays in the release of utility tariffs and charges cause substantial confusion and competitive harm in the retail market. RESA agrees with ExGen's proposed solution—REC procurements should be conducted within days of the energy and capacity procurements

## III. RESPONSE TO COMMISSION STAFF AND BPC-THREE-YEAR LADDER

In its Initial Comments, BPC, the procurement monitor for both Commonwealth Edison Company ("ComEd") and Ameren Illinois Company ("Ameren") discussed the implications of

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<sup>2</sup> 35% of projected energy needs procured two years in advance of the year of delivery.  
35% of projected energy needs procured one year in advance of delivery.  
30% of projected energy needs procured in the year in which power is to be delivered.

customers switching from the utilities to Retail Electric Suppliers (“RES”) on future procurements. BPC suggested three ways in which the risk of over or under-procuring could be mitigated. First, the Commission could order the electric utilities to submit an updated load forecast in March that would be used to update the quantities to be procured. Second, the IPA could procure less by lowering the targets to be hedged over the IPA’s three-year procurement timeframe, its three-year ladder approach. Third, procurements could be held more frequently. Unfortunately, while in RESA’s opinion, the third option is the best solution, BPC noted that it viewed its third option as “unlikely” because of the “added complexity of introducing additional RFPs each year”. (BPC Initial Comments, pp. 9-12)<sup>3</sup>

Similarly, the Commission Staff addressed the IPA’s three-year ladder hedging strategy, finding it to be “an expensive one”. Specifically, between June 2009 and May 2012, due to relatively low prices on the spot market, net losses on the IPA’s hedging contracts have been approximately \$44 million. However, the Commission Staff noted that the quantities hedged through the IPA process have been “relatively minor” compared to the total quantities hedged, *i.e.* including the pre-existing five-year fixed-quantity swap contracts with ComEd’s and Ameren’s affiliates and the one-year fixed-quantity contracts that were added in 2008 (both of which were prior to the IPA’s process). Including those contracts, the net losses on all of these forward fixed-quantity contracts has been approximately \$2 billion over four years. (Staff Initial Comments, p. 2)

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<sup>3</sup> Separately, BPC noted Ameren’s inability to procure around-the-clock energy for the four-year seven-month period from June 2013 through December 2017. Ameren had solicited 650 MW under five separate products, each representing a separate period of time. Ameren was able to procure only 200 MW out of the 650 MW for the third time period (June 2015 to May 2016) and none for the last two time periods. While BPC does not explain, in its Initial Comments, the reason for this inability, it appears to demonstrate the uncertainty of forward markets and highlights RESA’s position against the employment of long-term procurements.

The Commission Staff also noted that, for ComEd, hedged quantities are expected to be significantly above actual demands during most of the 2012-2013 plan year, especially in the non-summer months. (*Id.*, pp. 2-3) The Commission Staff states that the main reasons why expected demand during the 2012-2013 plan year is significantly below hedged quantities are customers switching to RESs and the high costs of the utilities' portfolios relative to current market prices. (*Id.*, pp. 4-5) To address this situation, the Commission Staff recommends that the IPA consider reducing the degree to which it relies upon fixed-quantity fixed-price forward contracts for meeting the expected, but unknown, future demands of eligible retail customers, especially for periods beyond the first plan year. Staff offered two alternative proposals to provide examples. (*Id.*, pp. 5-6) Effectively, the Commission Staff is agreeing with BPC's second alternative-- the IPA could procure less by lowering the targets to be hedged over the IPA's three-year procurement timeframe, its three-year ladder approach.

As stated previously, RESA agrees with the third proposed solution suggested by BPC, a move toward market reflective pricing. RESA believes that it is far better to have more frequent procurement events which would reduce the time frame inherent in a 12-month market projection. In addition to more frequent procurement events, there are other mechanisms that can be considered to make current default service more market reflective. For example, the current weighting of the three-year blended contracts could be changed so that heavier weight is placed on the current energy year; or, rather than using three-year blended averages, shorter contract terms, such as 6-month or 12-month blended terms could be utilized. Moreover, RESA disagrees with BPC that that solution should be considered unlikely because of added complexity.

The IPA itself acknowledged the value of multiple procurement events in its Initial Plan.

The IPA, in its Initial Plan, filed in Ill. C. C. Docket 08-0519, stated:

Another method to achieve lowest total cost and price stability is to increase the frequency of procurement events. The IPA believes that a single annual procurement event increases portfolio risk by relying on market timing and by increasing the potential for bidders to exercise market power. To mitigate these risks, the IPA recommends more frequent and smaller volume entries into the market by transitioning to multiple procurement cycles and, eventually to a continuous procurement cycle. (Initial Plan, p. ii).

The IPA reiterated this position later in its initial plan:

A single annual procurement increases risk to the Portfolio because price risk is minimized by more frequent and smaller volume entries into the market. Additionally, single annual procurements increase the potential for bidders to exercise some level of market power depending on market conditions.

To mitigate these risks, the IPA recommends that procurement events occur more frequently than once per year. A likely method for managing such a schedule would be to migrate to multiple overlapping quarterly procurement cycles and eventually to implement a continuous procurement cycle. (Initial Plan, p. 15)

However, the Plan filed in Docket 11-0660, the fourth procurement plan prepared by the IPA, did not make any progress toward a transition to multiple procurement cycles.

There are many methods that can be used to implement a multiple procurement structure, including having the current once-a-year approach broken down into four phases, with potential bidders electing at the first phase which of the four procurements in which to take part. This would prevent the IPA from having to conduct the same participant application and screening process four times, thus needlessly adding to the IPA's administrative burdens. Obviously, other additional steps can be taken to reduce the additional burden caused by multiple procurement events, and those too should be considered. RESA believes that it would be useful for the Commission's Office of Retail Market Development to commence a workshop designed to evaluate varying approaches to a multiple procurement approach.

The IPA should move toward multiple procurement cycles for the following reasons. Generally, utility default service procurement should result in market reflective price signals. Continued progress toward a competitive electric market is the best way to help all consumers balance price risk and budget certainty while also providing innovative and customer-driven value-added services. Successful retail competition will produce downward pressure on price, offer a variety of product options for end use customers, increase conservation incentives, enhance customer service, improve environmental management and hasten the introduction of new, innovative products. Retail energy competition requires that default service pricing be properly structured; consumers must see a default price for electricity that reflects the actual market price of the electricity they consume.

Specifically, the failure of long-term procurement contracts to reflect current wholesale market prices creates inefficiencies in either direction. In the event that the company's procurement costs are higher than those available in the wholesale market, then customers are harmed by having to pay higher than market prices. In the event that wholesale market prices rise above the locked in utility costs, customers will receive incorrect price signals that distort the market and give rise to the following unintended harmful consequences: 1) a belief that energy is less expensive than reality, leading to potential over-consumption; 2) discouraging energy efficiency investment by under-valuing avoided costs; and, 3) the risk of rate shock as those contracts end. In all of these instances, customers will be harmed.

The use of more frequent procurement events would enable the procurement of shorter-term contracts which could be procured closer in time to actual delivery of the supply. The use of shorter term contracts procured closer in time to the date of delivery will enable customers to see a default price that better reflects prevailing market prices and will minimize long term

contract hedging premiums that are associated with longer term contracts procured far in advance of delivery. Better price signals will spur more thoughtful efficiency investments, wise energy usage, and spur development of the competitive market. Better accuracy reduces customer costs over the long term. A major benefit of having default prices reflect the market is that consumers who are on those default rates will be sent clearer price signals that, in turn, will cause more efficient energy usage.

Under the IPA's current three-year ladder approach, the time period between procurement and delivery of energy is too great. This time lag creates additional problems, especially in the case of consumer migration due to municipal aggregation or accelerated RES enrollment. The time lag between procurement and actual service combined with a three-year ladder approach increases both the probability that forecasted load will deviate from actual load, as well as the potential revenue impact of the deviation. Attempts to collect revenue attributable to these forecast-versus-actual deviations could give rise to unintended but foreseeable market distortions that are largely avoidable with more frequent procurement events. RESA's approach would provide multiple forecasts and multiple procurement events that would achieve the significant benefits described above.

As stated previously, in addition to more frequent procurement events, there are other mechanisms that can be considered to make current default service more market reflective. For example, the current weighting of the three-year blended contracts could be changed so that heavier weight is placed on the current energy year; or, rather than using three-year blended averages, shorter contract terms, such as 6-month or 12-month blended terms could be utilized. RESA believes the ORMD workshop (recommended above) should allow for any concepts that would lead to more market reflective pricing in the marketplace.

IV. Response to Commission Staff regarding Section 1-75 (c) (5) of the IPA Act.

The Commission Staff devotes Section IV of its Initial Comments to issues arising from Section 1-75 (c) (5) of the IPA Act. First, the Commission Staff raises a question as to the proper interpretation of the requirement in Section 1-75 (c) (5) that utilities collect ACPs from their hourly priced customers. The Commission Staff sets forth two possible interpretations of that Section. One, if the spending limit prevents the IPA from meeting its renewable energy resource goals, then the IPA must tap into the ACP revenues previously collected from hourly customers to supplement the renewable energy budget. Two, whether or not the spending limit is reached, the IPA must spend the ACP revenues previously collected from hourly customers on renewable energy resources. The Commission Staff supports this second interpretation. (Staff's Initial Comments, pp. 9-12)

Second, there is the question of what to do with unspent ACP revenues collected from hourly customers during the June 2010-May 2011 plan year, that were not spent for the June 2011-May 2012 plan year. Staff offers four alternatives regarding what the electric utilities should do with the funds: 1) refund the funds collected to eligible retail customers through the electric supply cost recovery riders; 2) return the funds to the hourly customers; 3) retain the funds for shareholders; or 4) retain the funds for a future renewable energy credit RFP (which the Commission Staff believes is barred by the IPA Act). The Commission Staff supports the first alternative. (*Id.*, pp. 13-14)

RESA believes that these are important questions of first impression, but is not prepared, at this time, to agree that the Commission Staff's positions on these questions are correct. RESA recommends that these questions be given additional consideration in the IPA's next

procurement plan. In particular, RESA is interested in the IPA's interpretation of Section 1-75 (c) (5)—since the IPA did not spend the funds collected from hourly customers on renewable energy resources.

V. CONCLUSION

RESA thanks the Commission for the opportunity to submit these Reply Comments.

Respectfully submitted,

/S/ GERARD T. FOX

Gerard T. Fox

An Attorney for the Retail Energy Supply Association

Law Offices of Gerard T. Fox  
Two Prudential Plaza  
180 North Stetson, Suite 3500  
Chicago, IL 60601  
(312) 268-5674  
[gerardtfox@aol.com](mailto:gerardtfox@aol.com)

June 28, 2012